

## **EXHIBIT E**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
CAMDEN VICINAGE**

**In re: Valsartan Products Liability  
Litigation**

MDL No. 2875

Honorable Robert B. Kugler,  
District Court Judge

Honorable Joel Schneider,  
Magistrate Judge

**DECLARATION OF MATT PERLBERG**

I, Matt Perlberg, being competent and over the age of twenty-one (21), state that I have personal knowledge of the following facts and hereby declare under penalty of perjury:

1. I am authorized to provide this declaration on behalf of Express Scripts, Inc. (“Express Scripts”), a Defendant in the above-captioned proceeding.
2. I am currently the Vice President of Supply Chain Sourcing and Product for Express Scripts.
3. In that capacity, I am familiar with the competitive and commercial sensitivities associated with generic drug pricing, including the processes by which generic pharmaceutical drugs such as valsartan-containing drugs (“VCDs”) are sourced for Express Scripts’ affiliated mail-order pharmacies. Likewise, in that capacity, I have personal knowledge regarding the steps Express Scripts and its affiliated entities take to protect the confidential and proprietary financial data and information related thereto.
4. Express Scripts is a pharmacy benefits manager (“PBM”). As a PBM, Express Scripts contracts with employers and other third-party payors (health plan sponsors), to safely, consistently, and affordably facilitate the dispensation of prescription drugs to plan members.

5. Express Scripts does not acquire or dispense prescription drugs. Instead, Express Scripts maintains a “network” of third-party retail pharmacies from which plan members may obtain prescription drugs. In addition, prescription drugs may be sourced for and dispensed by Express Scripts’ affiliated mail-order pharmacy entities.

6. I am aware that the defendants in this litigation include a number of pharmaceutical manufacturers and a number of drug wholesalers, many of which source generic pharmaceutical products for Express Scripts’ affiliated mail-order pharmacies. I am also aware that many of the defendants in this action are retail pharmacies.

7. I am aware that plaintiffs in this litigation have requested non-public information regarding the sourcing and pricing of VCDs from manufacturers and/or wholesalers. This information is commercially sensitive, highly confidential, and constitutes proprietary trade secrets.

8. Pharmacy sourcing of generic drugs, including VCDs, takes place in an extremely complex environment. A foundational aspect of these negotiations is that pricing and purchase quantities for these generic drugs remains confidential.

9. The critical nature of this secrecy cannot be overstated. Indeed, the very integrity of the generic pricing market requires that pricing information be absolutely protected and walled off from other market entities—including the manufacturers, wholesalers, or pharmacies that are defendants in this case—to maximize competitive balance between the various players in this environment, and to ensure access of generic drugs to consumers who require them.

10. Express Scripts and its affiliates that negotiate pricing have spent years expending significant efforts to wall off and protect this information. This includes extensive measures to maintain the confidentiality of its non-public pricing information and related financial data.

These efforts include strict confidentiality protections into sourcing contracts over many years with suppliers and wholesalers, expending substantial time, capital, and effort to abide by and enforce such provisions, and employing restrictions and clearances to limit access to this information to individuals within the company that have a need to know it.

11. In addition, certain of these sourcing agreements would potentially permit a manufacturer to seek relief in the event that costs information is disclosed.

12. If years of protective efforts are undone through the present litigation, and manufacturers or wholesalers obtain any pricing data, those manufacturers and wholesalers could use this information to prejudice Express Scripts (or its affiliated entities) in pricing negotiations. Similarly, if the defendant pharmacies obtained financial data related to the procurement costs associated with drugs dispensed by Express Scripts' affiliated mail-order pharmacies, either from Express Scripts directly or from manufacturers or wholesalers, the defendant pharmacies could gain an unfair advantage in the market.

13. Disclosing such information, even at a condensed or aggregate level, to the parties in this litigation would result in the destruction of the integrity of the process for negotiating generic pricing.

14. Accordingly, even a litigation protective order is insufficient to protect all parties involved from inadvertent disclosure of this highly sensitive information. Many of the Defendants either compete in the marketplace or are contracted with each other through heavily negotiated agreements. As such, any disclosure would cause irreparable harm. It would be impossible to undo the damage of such a disclosure.

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Executed on this 5 day of June, 2020

Matt Perlberg  
Matt Perlberg (Jun 5, 2020 17:26 CDT)

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Matt Perlberg

# Matt Perlberg Declaration (for signature 6.5.2020)

Final Audit Report

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